

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

DINÉ CITIZENS AGAINST )  
RUINING OUR ENVIRONMENT, *et al.*, )  
 )  
Plaintiffs, )  
 )  
v. )  
 )  
DAVID BERNHARDT, in his official )  
capacity as Secretary of the United States )  
Department of the Interior, *et al.*, )  
 )  
Federal Defendants, )  
 )  
and )  
 )  
WPX ENERGY PRODUCTION, )  
LLC, *et al.* and AMERICAN PETROLEUM )  
INSTITUTE, )  
 )  
Defendant-Intervenors. )  
\_\_\_\_\_ )

Case No. 1:15-cv-00209-JB-LF

**STIPULATED SETTLEMENT AGREEMENT  
REGARDING PLAINTIFFS' CLAIMS FOR ATTORNEYS' FEES AND COSTS**

This Stipulated Settlement Agreement (hereinafter, "Agreement") is made between Plaintiffs Diné Citizens Against Ruining Our Environment, San Juan Citizens Alliance, WildEarth Guardians, and Natural Resources Defense Council, and Defendants David Bernhardt, in his official capacity as Secretary of the Interior; the Bureau of Land Management ("BLM"); and William Perry Pendley, the Acting Director of BLM, (together, "the Parties").

WHEREAS, on August 1, 2019, Plaintiffs filed a Petition for Attorneys' Fees and Costs (ECF No. 158) in this action.

WHEREAS, on August 1, 2019, September 30, 2019, November 4, 2019, and January 3, 2020, the Parties stipulated to an extension of the deadline for briefing on Plaintiffs' petition to allow the Parties time to negotiate fees and costs (ECF Nos. 159, 161, 163, 165);

WHEREAS, the Parties believe it is in the interests of judicial economy and the Parties' interests to avoid litigating a fees motion;

WHEREAS, the Parties have engaged in extensive, good faith, and confidential settlement negotiations concerning Plaintiffs' request for attorneys' fees and costs;

WHEREAS, the Parties have reached an agreement as to an appropriate settlement of Plaintiffs' request for fees and costs;

WHEREAS, the Parties enter the Agreement below without any admission of fact or law, or waiver of any claims or defenses, factual or legal, except as specified in the Agreement;

THEREFORE, in the interests of the Parties and judicial economy, the Parties hereby stipulate to the following:

1. Defendants agree to pay and Plaintiffs agree to accept the lump sum total of \$150,000 in full and complete satisfaction of any and all claims, requests, demands, rights, and causes of action pursuant to the Equal Access to Justice Act ("EAJA"), 28 U.S.C. § 2412(d), and/or any other statute and/or common law theory for all attorneys' fees, costs, and expenses incurred by Plaintiffs in this litigation.

2. This payment of \$150,000 shall be paid no later than 90 days from the date that Plaintiffs provide the information necessary to complete the electronic transfer described in Paragraph 3.

3. The payment of \$150,000 will be made by electronic transfer to the client trust account of Plaintiffs' attorneys, Western Environmental Law Center. The transfer will be made using the information separately provided by counsel for Plaintiffs (including the name and address of the payee, bank name, address, phone number, account type, routing number, account number, tax ID number, and name and number of contact person). Counsel for Plaintiffs will

promptly provide the information necessary for Defendants to process the electronic transfer after the filing of this Agreement. Plaintiffs' attorneys agree to send confirmation of the receipt of the payment to counsel for Defendants within fourteen days of such payment. The United States may offset the payment amounts to account for any delinquent debts owed by the payment recipients to the United States pursuant to 31 U.S.C. §§ 3711, 3716.

4. Plaintiffs and Plaintiffs' counsel agree to hold the United States harmless in any dispute between Plaintiffs and Plaintiffs' counsel arising from the authorized transfer of the agreed-upon settlement amount.

5. Plaintiffs agree that receipt of this payment from the United States shall operate as a release of any and all claims for attorneys' fees, costs, and expenses that Plaintiffs may have against all Defendants under any authority with respect to any aspect of this litigation. Plaintiffs further agree to promptly withdraw their pending Petition for Attorneys' Fees and Costs (ECF No. 158) upon the filing of this Agreement.

6. No provision in this Agreement shall be interpreted as or constitute a commitment or requirement that Defendants obligate or pay funds in violation of the Anti-Deficiency Act, 31 U.S.C. § 1341, or any other law or regulation.

7. The Parties agree that this Agreement is a compromise to avoid further litigation only. This Agreement does not represent an admission by any Party to any fact, claim, or defense relating to any issue in this litigation. It has no precedential value and shall not be used as evidence of any precedent in any litigation.

8. This Agreement shall apply to and be binding upon the Parties, their members, delegates and assigns. The undersigned representatives of the Parties certify that they are fully

authorized by the party or parties whom they represent to enter into the terms and conditions of this Agreement and to legally bind the Parties to it.

IT IS HEREBY STIPULATED

DATED this 4th day of February, 2020.

/s/ Kyle J. Tisdel

Kyle J. Tisdel

[tisdel@westernlaw.org](mailto:tisdel@westernlaw.org)

WESTERN ENVIRONMENTAL LAW CENTER

208 Paseo del Pueblo Sur, Suite 602

Taos, New Mexico 87571

(p) 575.613.8050

*Counsel for Plaintiffs*

Samantha Ruscavage-Barz

[ruscavagebarz@wildearthguardians.org](mailto:ruscavagebarz@wildearthguardians.org)

WILDEARTH GUARDIANS

516 Alto Street

Santa Fe, NM 87501

(p) 505.401.4180

*Counsel for Plaintiff WildEarth Guardians*

PRERAK SHAH

Acting Deputy Assistant Attorney General  
Environment & Natural Resources Division  
United States Department of Justice

/s/ Clare Boronow

CLARE M. BORONOW

Trial Attorney, Admitted to Maryland Bar  
Environment & Natural Resources Division  
Natural Resources Section

999 18th Street

South Terrace, Suite 370

Denver, CO 80202

Tel: (303) 844-1382; Fax: (303) 844-1350

[clare.boronow@usdoj.gov](mailto:clare.boronow@usdoj.gov)

*Attorneys for Federal Defendants*